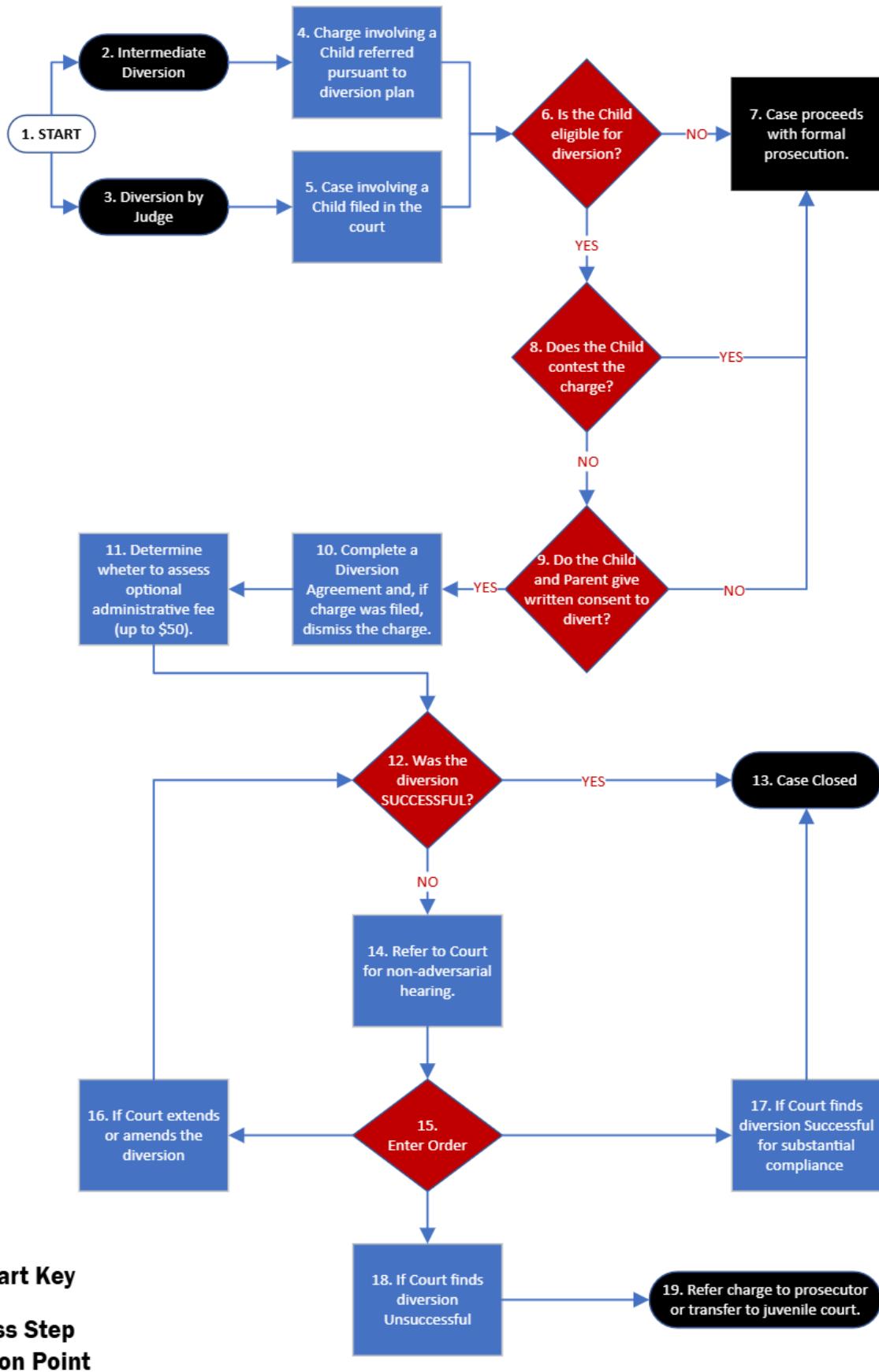


# Youth Diversion: Process Overview Flowchart

Updated to Reflect Changes from the Regular and Second Special Session of the 89th Legislature (2025)

Effective December 4, 2025

See Accompanying Commentary



## Youth Diversion: Flowchart Commentary

Box 1. Generally, a child shall be diverted from formal criminal prosecution as provided by Subchapter K of Chapter 45A of the Code of Criminal Procedure. How diversion proceeds will depend on the type of diversion. There are two types of diversion: intermediate diversion and diversion by judge (or judicial diversion). All courts must do judicial diversion. Courts may opt to do intermediate diversion. Arts. 45A.509, 45A.510, C.C.P. Subchapter K only applies to non-traffic offenses committed on or after January 1, 2025. Art. 45A.502, C.C.P. “Traffic offense” has the meaning assigned by Section 51.02 of the Family Code. Art. 45A.501(8-a), C.C.P.

Box 2. Courts that opt to do intermediate diversion must include that type of diversion in their diversion plan. Intermediate diversion occurs prior to filing the charge. A youth diversion coordinator or juvenile case manager must advise the child and child’s parent before the charge is filed that a case may be diverted for up to 180 days if the requirements in Article 45A.509(a)(1)-(4) are met. Art. 45A.509, C.C.P.

Box 3. Subchapter K provides for judicial diversion after a charge involving an eligible child is filed. Judicial diversion may not exceed 180 days. Art. 45A.510, C.C.P.

Box 4. The process for referral of charges under intermediate diversion should be addressed in the diversion plan. After referral, certain determinations must be made before proceeding to diversion.

Box 5. If a charge involving a child who is eligible for diversion is filed with the court, the judge must divert the case under Article 45A.510. After such a charge is filed, certain determinations must be made before proceeding to diversion.

Box 6. Whether intermediate or judicial diversion, a child must be eligible for diversion. A child is eligible to enter into a diversion agreement under Subchapter K only once every 12 months. A child is not eligible for diversion if the child previously had an unsuccessful diversion under Subchapter K or if the prosecutor objects to the diversion. Art. 45A.504, C.C.P.

Box 7. If a child either is ineligible or contests the charge, or the child or parent does not give consent to diversion, the case proceeds with prosecution. Arts. 45A.504, 45A.510, C.C.P.

Box 8. The child has a right to go to trial. Therefore, if the child contests the charge, set the child for trial.

Box 9. A court may not divert a child from criminal prosecution without the written consent of the child and child’s parent. Art. 45A.504(e), C.C.P.

Box 10. Article 45A.508 lists the requirements for a diversion agreement. A charge may not be filed against a child or, if filed, shall be dismissed by the court if the child does not contest the charge, is eligible for diversion, and accepts the terms of the diversion agreement.

**Box 11.** Article 45A.512 authorizes a court to collect from a child's parent an administrative fee not to exceed \$50 (Local Youth Diversion Administrative Fee) to defray the costs of the diversion of the child's case under Subchapter K. This fee is optional. It may not be collected unless it is specified as a term of the diversion agreement accepted by the parent. Diversion may not be contingent upon payment of this fee. Art. 45A.512, C.C.P.

**Box 12.** By the end of the diversion period, determine whether the child has successfully complied with the terms of the diversion agreement.

**Box 13.** The case of a child who successfully complies with the terms of the diversion agreement shall be closed and reported to the court as successful. Arts. 45A.509(c), 45A.510(d), C.C.P.

**Box 14.** A child who does not comply with the terms of the diversion agreement shall be referred to court for a non-adversarial hearing. Arts. 45A.509(d), 45A.510(e), C.C.P. This non-adversarial hearing is an opportunity for a judge to confer with the child and parent to determine whether a diversion should be declared unsuccessful by the court. The court may also hear from any person who may assist the child or the court in determining what is in the best interests of the child and the long-term safety of the community. Art. 45A.511(b), C.C.P.

**Box 15.** After the hearing, a court may enter one of the orders listed in Article 45A.511(c). See Boxes 16, 17, and 18 for possible orders.

**Box 16.** Under Article 45A.511(c)(1)-(4), a court may enter an order: (1) amending or setting aside terms in the diversion agreement; (2) extending the diversion period not to exceed one year from the initial start date of the diversion; (3) issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion agreement; and (4) requiring the child's parent to perform (or refrain from doing) certain acts the court determines will increase the likelihood the child will successfully complete the diversion and comply with any other order of the court that is reasonable and necessary for the welfare of the child. If the court orders any of these, the next step is to determine whether the child has successfully completed the terms of the agreement under the order. Go to Box 12.

**Box 17.** The court may enter an order finding the diversion successful on the basis of substantial compliance. Art. 45A.511(c)(5), C.C.P. After such an order, the case shall be closed. Arts. 45A.509(c), 45A.510(d), C.C.P.

**Box 18.** The court may enter an order finding the diversion unsuccessful. Art. 45A.511(c)(6), C.C.P.

**Box 19.** Upon a finding of an unsuccessful diversion, the court may transfer the child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08 of the Family Code or refer the charge to the prosecutor for consideration of re-filing. Art. 45A.511(c)(6)(A)-(B), C.C.P.